

SECOND DIVISION

[G.R. No. 221857, August 16, 2017]

**JESUS O. TYPOCO, JR., PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

[G.R. No. 222020]

**NOEL D. REYES, PETITIONER, VS. PEOPLE OF THE PHILIPPINES,
RESPONDENT.**

DECISION

PERALTA, J.:

Before this Court are consolidated petitions for review on *certiorari* under Rule 45 of the Rules of Court assailing the Decision^[1] dated October 15, 2015, and Resolution^[2] dated December 8, 2015 of the Sandiganbayan (*SB*) in SB-11-CRM-0159 finding petitioners Jesus O. Typoco, Jr. (*Typoco*) and Noel D. Reyes (*Reyes*) guilty beyond reasonable doubt of the offense of Falsification of Public Document defined and penalized under Article 171, paragraphs (5) and (6) of the Revised Penal Code.

The factual antecedents are as follows:

Petitioners and their co-accused Aida B. Pandeagua (*Pandeagua*) and Angelina H. Cabrera (*Cabrera*) were charged with Falsification of Public Documents defined and penalized under Article 171 of the Revised Penal Code. Petitioners were found guilty as charged, but their co-accused Pandeagua and Cabrera were acquitted for insufficiency of evidence. Also, the petitioners and the aforementioned accused, together with Arnulfo G. Salagoste (*Salagoste*), were charged with Violation of Section 3(e) of Republic Act (*R.A.*) 3019, otherwise known as the *Anti-Graft and Corrupt Practices Act*, but all the accused were acquitted of the charge.^[3]

The instant petitions review the conviction of the petitioners of the crime of falsification, hence, the discussion will merely focus on the charge of falsification. The accusatory portion of the Amended Information for falsification states:

That on or about 21 April 2005, or sometime prior or subsequent thereto, in Camarines Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, Jesus O. Typoco, Jr., Salary Grade 30; Noel D. Reyes, Salary Grade 22; and Aida B. Pandeagua, Salary Grade 9, holding the position of Governor, OIC-General Service Office, and Buyer II, respectively, all public officers, taking advantage of their public positions, acting together, conspiring and confederating with one another and with one Angelina H. Cabrera, owner of Cabrera's Drugstore and Medical Supply, did then and there falsify Purchase Order

No. 0628 involving the purchase of various medicine by the Provincial Government by changing its original date from April 21, 2005 to May 20, 2005 in order to conceal that an order has been (sic) made with Cabrera's Drugstore and Medical Supply prior to the bidding conducted on May 18, **2005** to the damage and prejudice of the Provincial Government.

CONTRARY TO LAW.^[4]

When arraigned for the charge of falsification, petitioners and their co-accused Pandeagua and Cabrera pleaded not guilty to the offense charged. At the pre-trial conference of the two cases which were consolidated, petitioners and their co-accused admitted their respective official capacities as public officers at the time of the commission of the offense as contained in the Pre-Trial Order:

I. STATEMENT OF ADMITTED FACTS:

"The accused individually admitted their respective official capacities as public officers at the time of the alleged commission of the offenses charged as follows:

- Jesus O. Typo co, Jr. - Governor;
- Noel D. Reyes - Officer-in-Charge, General Services Office;
- Aida B. Pandeagua - Buyer II, General Services Office; and
- Arnulfo G. Salagoste - Provincial Health Officer

all of the Provincial Government of Camarines Norte, while accused Angelina H. Cabrera was a private individual during that same period of time.

x x x^[5]

Thereafter, joint trial on the merits ensued. To prove its case, the prosecution presented the testimony of Nemia Y. Noora (*Noora*), State Auditor III of the Commission on Audit (COA), assigned in Daet, Camarines Norte. She testified on the results of the post-audit conducted by their office relative to the transactions of the provincial government of Camarines Norte which included the purchase of medicines from Cabrera Drugstore and Medical Supplies (CDMS).^[6] The testimony of Provincial Accountant Myrna de Velez Sendon was dispensed with in view of the stipulations between the parties as to the authenticity of some documents and as to the lack of personal knowledge of witness on the execution of the documents.^[7] On the other hand, the defense presented the respective judicial affidavits of petitioners and their co-accused.^[8]

The evidence disclosed the following facts:^[9]

In 2005, the Office of the Provincial Governor of Camarines Norte adopted a "Medical Indigency Program" with a project cost of P4,500,000.00. The program was aimed to provide the indigent families of the two hundred eighty-two (282) barangays of the province with medicines and hospitalization services, particularly those beyond the poverty line. The program was based on a Project Design^[10] prepared by the accused Salagoste and approved by petitioner Typoco.

In the implementation of the aforesaid program, accused Salagoste procured from CDMS various medicines and medical supplies in the total amount of P1,649,735 for the use of the Camarines Norte Provincial Hospital (CNPH) under Purchase Request (PR) No. 0628^[11] and Purchase Order (PO) No. 0628,^[12] both dated April 21, 2005. PR No. 0628 was prepared by accused Pandeagua and approved by petitioner Typoco. The subject PO No. 0628 was also prepared by accused Pandeagua, issued by petitioner Reyes and approved by petitioner Typoco.

The said procurement was supported by Disbursement Voucher (DV) No. 101-05-04-2398^[13] dated April 26, 2005, with CDMS as claimant, for the payment of the various medicines to be utilized by CNPH patients in the amount of One Million Six Hundred Forty-Nine Thousand Seven Hundred Thirty-Five Pesos (P1,649,735.00). In the said DV, accused Salagoste certified that the expenses were necessarily lawful and incurred under his supervision, while petitioner Typoco approved the payment.

On April 28, 2005, CDMS delivered the procured medicines under the subject PO No. 0628 as evidenced by Sales Invoice No. 4325.^[14] The medicines were inspected on the same day by Property Inspector Raymund L. Quinones as revealed in the Inspection and Acceptance Report (IAR)^[15] thereby consummating the subject procurement of medicines covered by the subject PO.^[16]

On May 18, 2005, a public bidding for the procurement of the same medicines covered by PO No. 0628 was conducted by the Bids and Committee (BAC) of the Province of Camarines Norte. The bid of CDMS in the amount of P1,645,140.00 was declared as the Lowest Calculated and Responsive Bid pursuant to BAC Resolution No. 2005-05^[17] dated May 18, 2005.^[18]

On May 19, 2005, petitioner Typoco issued the corresponding Notice of Award (Exhibit "L") to accused Cabrera, owner of CDMS.^[19]

On May 20, 2005, a Contract^[20] was executed by and between the Province of Camarines Norte and CDMS whereby the latter as supplier shall provide the former the various medicines covered by PR No. 0628 for and in consideration of the amount of P1,645,140.00. On the same day, the supplier issued Sales Invoice No. 4325 (Exhibit "M") as proof of the delivery of the procured medicines in the total amount of P1,649,735.00.^[21]

On May 24, 2005, the Provincial Government of Camarines Norte issued Check No. 0144730^[22] to CDMS covering the amount of P1,420,802.72 as payment for the procured medicines. The check, signed by petitioner Typoco and Provincial Treasurer Lorna Coreses, was received by CDMS as evidenced by Official Receipt No. 1528^[23] dated May 25, 2005.^[24]

In October 2005, the foregoing disbursement for the payment of medicines was the subject of a post-audit that was conducted by a team of COA Auditors with State Auditor III Noora as team leader. In the Audit Observation Memorandum (AOM) No. 2006-005^[25] dated April 18, 2006 addressed to petitioner Typoco the following audit observations were made:

"x x x on the disbursement for payment of medicines for Medical Indigency Program amounting to P1,649,735.00 showed that:

- There are alterations in the Purchase Order and Purchase Request
- The dates of Delivery Receipt and Acceptance in the Sales Invoice were tampered *vis-a vis* in the Inspection and Acceptance Report of the agency.
- List of individual recipients of the drugs and medicines are not submitted to us.^[26]

An annual financial audit on the Provincial Government of Camarines Norte was conducted by the COA. The results of the audit were embodied in its Annual Audit Report^[27] which revealed that: "(1) there was no attached list of individual recipients to the voucher, (2) the date of inspection was changed, and (3) Sales Invoice No. 4325 and PO were undated/apparently changed."^[28]

Moreover, in the testimony of Noora, she cited the following deficiencies that the audit team found in the procurement of medicines, to wit:

1. the respective dates of the Purchase Order, the Inspection and Acceptance Report, and the Sales Invoice were tampered/alterd as there were erasures therein;
2. the list of the individual recipients of the drugs and medicines were not submitted and unnumbered;
3. the Request and Issue Slip (RIS) that was requested by Dr. Arnulfo Salagoste and approved by former Governor Jesus O. Typoco, Jr. was undated and unnumbered;
4. the Report Utilization^[29] that was certified by accused Dr. Arnulfo Salagoste and Engr. Noel O. Reyes and approved by accused Governor Jesus O. Typoco, Jr. as to its accuracy and correctness was undated so that the audit team had no way to determine when the delivered medicines were actually disposed; and
5. there was no request/invitation from the BAC for the COA to attend the bidding.^[30]

Petitioner Typoco did not submit any reply/comment to the audit report despite his request for an extension of one (1) month.

All the documentary exhibits formally offered by the prosecution consisting of Exhibits "A," "H," "J" to "K," "M" to "P," "X" to "AA," and "CC" to "FF"^[31] were admitted by the Sandiganbayan.

During the trial of the case, petitioner Typoco, denied any irregularity in the transaction. He insisted that the real date of the subject PO No. 0628 is "05/20/05" and that a competitive public bidding was conducted prior to the award of the

contract. His chronology of events highlighted the dates (as altered) of the preparation and accomplishment of the various documents.

On the part of petitioner Reyes, he admitted having noticed the alteration of the date in PO No. 0628, but insisted that the alteration was an honest mistake on the part of co-accused Pandeagua who was also the one who encoded the wrong entries in the PO. Thus, the alleged alteration was supposedly a correction intended to reflect the true date of the preparation/accomplishment of the documents. Petitioner Reyes utilized the timeline indicated in the altered dates to explain the circumstances surrounding the transaction.

Accused Pandeagua admitted having prepared PO No. 0628. She likewise admitted having changed the date appearing therein from April 21, 2005 to 20 May 2005 upon the instructions of petitioner Reyes.^[32]

All the documentary exhibits formally offered by the defense consisting of Exhibits "3" to "18"^[33] were admitted by the Sandiganbayan.

On October 15, 2015, the Sandiganbayan rendered a Decision, the dispositive portion of which states:

WHEREFORE, judgment is hereby rendered as follows:

1. In **SB-U-CRM-0159** - finding the accused JESUS O. TYPOCO, JR. and NOEL D. REYES **GUILTY** beyond reasonable doubt of the offense of falsification of public document defined and penalized under paragraphs (5) and (6) of Article 171 of the Revised Penal Code as charged in the Information and, with the application of the Indeterminate Sentence Law and without any mitigating or aggravating circumstance, hereby sentencing each of them to suffer the indeterminate penalty of TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of *prision correccional*, as minimum, to EIGHT (8) YEARS and ONE (1) DAY of *prision mayor*, as maximum, with accessories thereof and to pay a fine of TWO HUNDRED THOUSAND PESOS (P200,000.00) with costs against the accused, and ACQUITTING accused AIDA B. PANDEAGUA and ANGELINA H. CABRERA for insufficiency of evidence with cost *de oficio*.
2. In **SB-11-CRM-0160** - **ACQUITTING** the accused JESUS O. TYPOCO, JR., ARNULFO G. SALAGOSTE, NOEL D. REYES, AIDA B. PANDEAGUA and ANGELINA H. CABRERA with cost *de oficio*.

SO ORDERED.^[34]

The Sandiganbayan found no civil liability against the accused, considering that the procured medicines were delivered by CDMS as evidenced by Sales Invoice No. 0628 dated April 28, 2005; the medicines were inspected by the Property Inspector as per Inspection and Acceptance Report; and there being no evidence of under delivery or overpricing or damage. Nonetheless, considering that the list of intended recipients were not submitted, the Sandiganbayan Decision was without prejudice to whatever liability that may arise for failure to deliver the subject medicines to their intended recipients.